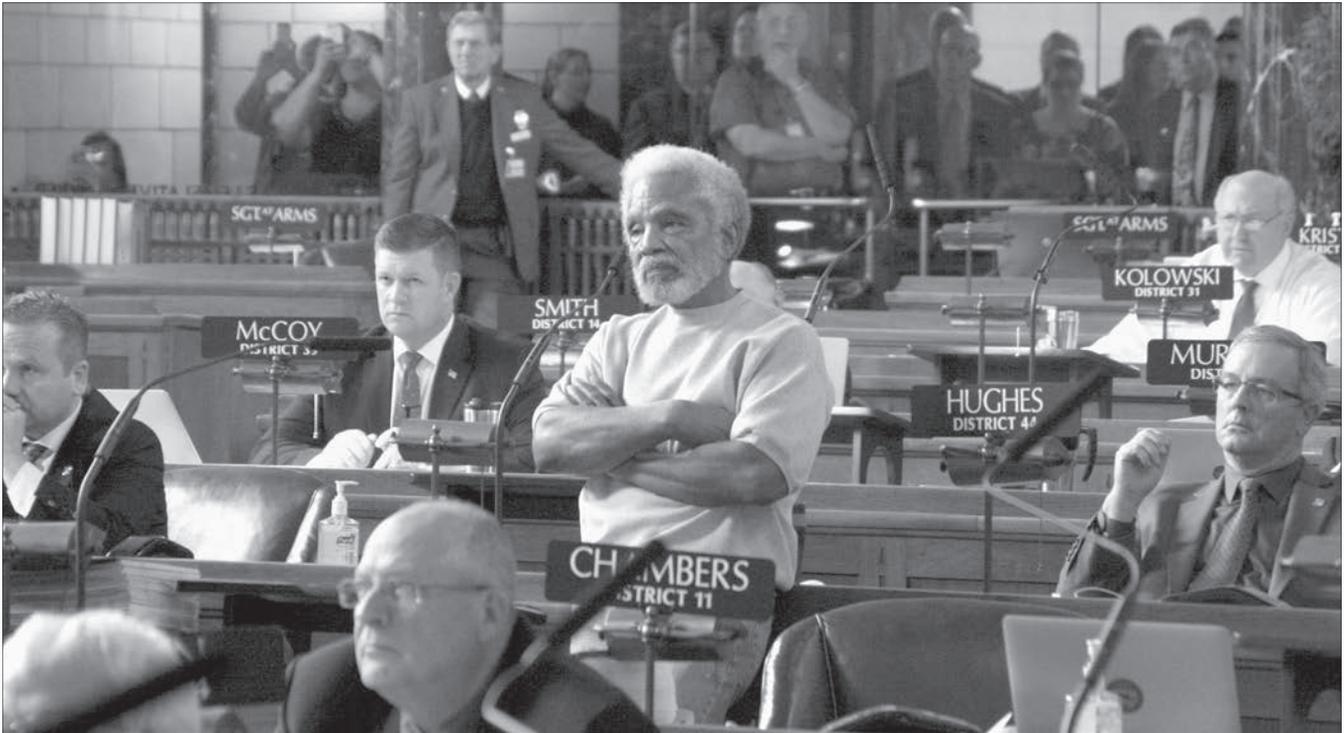


UNICAMERAL UPDATE

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Senators and observers watch the voting board as the final votes are cast to repeal the state's death penalty.

Legislature repeals death penalty

Senators passed a bill May 20 ending capital punishment in Nebraska.

Introduced by Omaha Sen. Ernie Chambers, LB268 replaces death penalty provisions with a life sentence. The bill will apply retroactively to 11 inmates currently serving capital punishment sentences at the Tecumseh State Correctional Institution.

The effort to end capital punishment in Nebraska has been a career-long effort of Chambers' since 1973. Chambers said he has never seen the level of support for repeal that he is witnessing now. Nebraska is on the cusp of a historical decision, he said.

"We have an opportunity to take one small step for the Legislature and

one giant leap for civilization," Chambers said. "Nebraska has a chance to step into history—on the right side of history, to take a step that will be beneficial to the advancement of civilized society which is showing its maturity and reflecting a humane sense of justice."

Lawmakers passed the bill on a 32-15 vote after two hours of debate, the maximum allowed on final reading. Chambers' motion to invoke cloture, or end debate and force the final vote on the bill, succeeded on a 34-14 vote.

The measure removes the Class I felony penalty designation from the state criminal code and makes first degree murder a Class IA felony punishable by life imprisonment. According to statute, a murder is considered a

first degree offense if done purposely with deliberate and premeditated malice in the attempt of a first degree sexual assault, arson, robbery, kidnapping, hijacking, burglary or poisoning.

The bill also does not prevent a sentencing court from ordering restitution or alter the authority of the state Department of Correctional Services to determine appropriate measures for incarceration of an offender.

Omaha Sen. Beau McCoy introduced a motion to bracket the bill until April 16, 2016, saying the state's most heinous criminals deserve the strongest punishment.

"All these years in Nebraska, we've kept the death penalty because, as the Legislature and as the people of this

(continued page 2)

Legislature repeals death penalty

(continued from front page)

state, we've said the ultimate punishment should be reserved for those that have committed the worst of the worst offenses against all Nebraskans," McCoy said.

Sen. Sue Crawford of Bellevue supported the bill, saying the appeals that follow a death penalty conviction keep cases in court for decades, which prolongs the pain suffered by victims' family members.

"We need to think about more than just the person who commits these heinous crimes," Crawford said.

Malcolm Sen. Ken Haar also supported the repeal, saying that ending capital punishment reflects national prison reform trends favoring more humane treatment of offenders.

"We need to take a civilized step forward and say the state will not execute people," Haar said.

Speaking in support of the repeal, Hyannis Sen. Al Davis said the nation's justice system makes too

many mistakes to be trusted with executions.

"The state should not ever risk sending someone to death who might be innocent," he said.

Sen. Mike Groene of North Platte disagreed, saying juries are perceptive enough to decide which crimes merit capital punishment.

"I trust them to do the right thing,"

Groene said in opposition to the repeal.

After the successful cloture vote, senators rejected the bracket motion 14-31 and passed LB268.

Gov. Pete Ricketts has said that he intends to veto the bill. He has five days, excluding Sunday, to respond.

Thirty votes are needed to override a veto. ■



Sen. Beau McCoy (right) introduced a motion to bracket LB268.

UNICAMERAL UPDATE

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THE NEBRASKA LEGISLATURE'S OFFICIAL NEWS SOURCE SINCE 1977

MEET THE SENATOR

Craighead focuses on the positive

Years before her election to the Legislature, Joni Craighead was dispensing valuable advice in the form of her first book, “First Impressions: Tips to Enhance Your Image:”

“Listen twice as much as you talk. When we listen, we learn.” This proves to be valuable advice for any new senator.

The senator is a sixth generation product of Nebraska City, where her grandfather, Edgar Ransdell, served as mayor. After high school, Craighead moved to Omaha and earned her bachelor’s degree in medical technology from the University of Nebraska Medical Center. She later earned a master’s of public administration from the University of Kansas.

She shifted her focus to the business world, starting several companies and organizations with a specific focus on helping people put their best foot forward. She became heavily involved in local and national pageants as both a consultant and judge.

Craighead channeled this experience into “First Impressions,” allowing her to teach people the importance of self-care and confidence.

“I truly believe that if we look good, we feel good. If we feel good, we can take care of the business at hand and care for others,” she said.

After her move to Topeka, Kan., the future senator met Michael Craighead and the two were married within six months. He had a daughter, Jennifer, and the couple later welcomed another daughter, Staci. A Vietnam War vet-

eran, Michael was later diagnosed with cholangiocarcinoma—a cancer of the bile ducts—which was attributed to his exposure to Agent Orange during the war.

Michael ultimately lost his battle with cancer in 2007. Despite the devastating loss of her husband, Craighead focused her attention on helping others battling the rare disease. Along with four other individuals in Houston and Salt Lake City, she co-founded the Cholangiocarcinoma Foundation to search for a cure



Sen. Craighead and her husband, Richard Hoback, relish the opportunity to visit grandson Edward in San Diego, where he lives with his parents Commander Ted and Mrs. Carrie Hill.

and improve the quality of life for those who have been diagnosed.

“I thought it was a very positive way to deal with his death,” she says.

Craighead found herself looking to regroup and refocus her energy on the positive. She founded a real estate development company, working to provide affordable housing in Omaha.

A chance meeting at a Nebraska

City concert a few years later provided an opportunity to reconnect with an old high school friend, Richard Hoback.

“I walked right up to him and said ‘Why don’t you ask me to dance?’” she said. “And the rest is history.” They were married in 2012. He has two grown children: Carrie and Kyle.

Somehow Craighead does find time for hobbies. A visit to her Capitol office is a testament to her creativity and craftiness. Craighead sewed the cushions on her chairs and curated the art that adorns the walls. She even plans on writing again, although free time may be harder to come by these days.

Her close friend, the late Sen. Pam Brown, gave Craighead her first real exposure to the Legislature. Despite learning a lot from Brown, she says she never really gave too much consideration to serving in the Legislature. Her husband, on the other hand, knew better.

“I really hadn’t thought about running. When I asked my husband if he thought I should run, he said ‘Honey, I love you more than life itself, but you do realize it’s all you’ve been talking about since we met,’” she said, laughing.

The new senator says she is continuously looking for solutions that can be a win-win both for residents of her district and the state at large.

“I think it’s important to take a critical eye to our current laws and government programs,” she says. “We need to make sure that they are effective and efficiently run. We owe it to the taxpayers who have to fund them.” ■

AGRICULTURE



Livestock, community garden development passed

A measure that encourages development of livestock and community gardening projects in Nebraska was amended May 18 and passed May 21.

Introduced by Ogallala Sen. Ken Schilz, LB175 authorizes the state Department of Agriculture to award grants to counties designated as livestock friendly. Grants will be awarded for strategic planning and improvements to public infrastructure. Operations producing dairy and eggs also are eligible.



Sen. Ken Schilz

Grants for strategic planning projects are limited to \$15,000 each. Grants for infrastructure projects are limited to one half of the unobligated balance of the fund, or \$200,000, whichever is less. The bill also raises from \$30,000 to \$150,000 the tax credit cap allowed through the state's rural development program for applications filed after Jan. 1, 2016.

An amendment introduced on select file by Omaha Sen. Burke Harr, adopted 37-0, added provisions of his LB544. The amendment permits state agencies or municipalities to use as community gardens vacant public land for which they have title. After approving a community garden application process, agencies and municipalities are required to respond to a request within 60 days of receipt of an application.

The amendment requires the state director of agriculture to establish a

community gardens task force by August 2015 to study, evaluate and make recommendations for establishing and expanding community gardens, donating food from the gardens and increasing benefits of the gardens to their respective communities.

Another provision of the amendment makes changes to the state Seed Law and defines a seed library as a nonprofit governmental or cooperative organization that donates seeds for seed saving, education and access. Under the measure, seed libraries are exempt from certain packaging, labeling and transfer standards.

A select file amendment introduced by Schilz, adopted 34-0, limits the total available tax credits for approved projects to \$500,000 in 2016, \$750,000 in 2017 and 2018, and \$1 million for 2019 and each year thereafter.

Senators advanced LB175 to final reading May 18 on a voice vote.

LB175 passed May 21 with an emergency clause on a 47-0 vote.

New regulations for grain dealers passed

A bill passed May 21 regulates the financial obligations of Nebraska grain dealers.

Introduced by Wahoo Sen. Jerry Johnson, LB183 decreases grain dealer obligations covered by the dealer's security, which is money set aside to pay growers who are not paid immediately upon delivery of their product.



Sen. Jerry Johnson

The bill limits the dealer security to cover payment only to growers who sell directly to dealers. The bill prevents owners who are not growers from

claiming past due payments or grain purchasers from filing claims stemming from dealers' failure to deliver.

The bill also shortens from 30 to 15 days the time a grower may demand payment from the dealer, attempt payment negotiations with the dealer or notify the Public Service Commission of an apparent loss.

Grain transportation vehicles no longer are required to be registered and issued grain dealer plates. Further, accountants or accounting firms preparing statements for grain dealership license applicants now may be located in any state.

The bill passed on a 48-0 vote.

BANKING, COMMERCE & INSURANCE



Crowdfunding investments for small business approved

Small businesses may seek startup capital through new avenues under a bill approved May 21 by the Legislature.

Under LB226, introduced by Lincoln Sen. Colby Coash, small businesses may raise up to \$2 million each year from accredited or unaccredited investors.



Sen. Colby Coash

All projects attempting to raise money will require approval from the state Department of Banking and Finance. Individuals investing money under LB226 will receive a proportionate security stake in the company in exchange for their investment, without registration under state and federal securities laws. Unaccredited investors will not be allowed to invest more than \$5,000 in a particular company.

Investors must be residents of Nebraska and will be required to sign a certificate acknowledging the potential for the complete loss of investment.

The bill passed 48-0.

BUSINESS & LABOR

Workers' compensation revised

Lawmakers passed a bill May 21 that updates workers' compensation statutes.

Sponsored by Omaha Sen. Burke Harr, LB480 contains provisions of four bills.



Sen. Burke Harr

Provisions of LB158, introduced by Omaha Sen. John McCollister, deny benefits if an employee knowingly and willfully made false statements regarding his or her physical or medical condition by acknowledging that he or she is able to perform the essential functions of a job based on the employer's job description.



Sen. John McCollister

Provisions of Omaha Sen. Jeremy Nordquist's LB363 clarify that employees are not responsible for any finance charges or late penalty payments as a result of medical services rendered by a provider.



Sen. Jeremy Nordquist

LB133, introduced by Crete Sen.

Laura Ebke, revises the interest rate applicable to an award of workers' compensation benefits in which an attorney's fee is permitted by changing



Sen. Laura Ebke

the rate from 14 percent to a rate calculation of 6 percentage points above the bond investment yield, as published by the U.S. Secretary of the Treasury.

Provisions of LB600, also by Ebke, expand the authority to invest trust assets held in irrevocable workers' compensation trusts to allow for investments in the same manner as corporate trustees holding retirement or pension funds for governmental employees.

If the assets fall below the acceptable amount required by the compensation court, the trustor must deposit additional assets to continue to satisfy the minimum security amounts required. The provisions prohibit a trustee from investing assets into stocks, bonds or other obligations of the trustor.

Senators passed the bill 46-0.

EDUCATION

Funding for GED programs approved

A bill that allocates funding to private entities offering high school equivalency programs was passed by the Legislature May 21.

LB382, introduced by Omaha Sen. Tanya Cook, provides grant funding to any entity, other than an educational institution,



Sen. Tanya Cook

that runs a qualified high school equivalency training program.

It authorizes a transfer of \$400,000 from the Job Training Cash Fund to support the grant program. The amount of grant funding will depend on the number of enrolled students.

Omaha's Literacy Center of the Midlands currently is the only program that would be eligible for funding under the bill.

The bill passed on a 46-0 vote.

Lawmakers pass omnibus education bill

A bill that makes technical changes to existing education statutes was passed May 21.

Cedar Rapids Sen. Kate Sullivan introduced LB525, the Education Committee's annual "clean-up" bill. The bill clarifies that any homeless student must be admitted without charge to the district in which the student currently is located or the school where the student was last enrolled.



Sen. Kate Sullivan

It also allows an early childhood professional to report his or her educational degrees or professional credentials, relevant training and work experience to the Nebraska Early Childhood Professional Record System.

The bill includes provisions of LB524, also introduced by Sullivan, regarding the Community Eligibility Provision (CEP). CEP is a federal program that allows school districts in which at least 40 percent of students are defined as poverty students to offer free meals to all students without collecting applications from households.

To encourage participation in the program, the bill redefines low-income and poverty students under the Tax

Equity and Educational Opportunities Support Act (TEEOSA) to include students who receive free meals under CEP.

Provisions of several additional bills were incorporated into LB525, including:

- LB526, introduced by Sullivan, which clarifies that an individual holding a permit issued by the Commission of Education is included under the definition of individuals certified to teach, administer or provide special services;

- LB239, introduced by Malcolm Sen. Ken Haar, which reallocates funds generated by solar and wind energy agreements on school lands to assist schools in implementing an effective educator evaluation model;



Sen. Ken Haar

- LB509, introduced by Omaha Sen. Tanya Cook, which eliminates a TEEOSA poverty allowance disqualification and instead imposes a 5 percent reduction in the allowance upon failure to meet requirements;



Sen. Tanya Cook

- LB572, introduced by Hyanis Sen. Al Davis, which requires the state security director to recommend curricular and extracurricular material designed to



Sen. Al Davis

- prevent cyber-bullying; and
- LB410, introduced by Sullivan, which expands eligibility for the Access College Early Scholarship Program Act to include students participating in a career academy or career path of study.

On select file, senators voted to remove provisions of Omaha Sen. Rick Kolowski's LB343, which had been incorporated on general file. These would have allowed schools to apply for reimbursement of implementation costs associated with providing college- and career-readiness programs. Funding totaling \$2 million would have been available for programs of excellence, dual-enrollment courses or career-readiness programs in fiscal year 2016-17.



Sen. Rick Kolowski

The bill passed on a 46-0 vote.

GENERAL AFFAIRS

Omnibus alcohol bill passed

A bill that makes numerous changes to the state Liquor Control Act was amended May 18 and given final approval May 21.

LB330, sponsored by O'Neill Sen. Tyson Larson, makes several changes to the state's liquor laws. The bill was amended on general file to prohibit the possession or sale of alcohol in powdered form in Nebraska, while providing an exemption for research hospitals and other facilities. The sale of powdered alcohol would have been



Sen. Tyson Larson

a Class I misdemeanor.

Seward Sen. Mark Kolterman offered an amendment during select file debate May 18 to change the penalty. He said lawmakers had raised concerns on general file that the punishment was harsher than what is currently meted out for selling marijuana.

"Last time we talked about this, I took note about the concerns about the penalties that were there," Kolterman said.

Under the amendment, adopted 44-0, possession of powdered alcohol will carry the following penalties:

- an infraction and \$300 fine for a first offense;
- a Class IV misdemeanor, \$400 fine and up to five days of incarceration for a second offense; and
- a Class IIIA misdemeanor, \$500 fine and up to seven days of incarceration for a third and all subsequent offenses.

Larson said a penalty should be applied only if an individual intended to sell the product. Powdered alcohol is legal in other states, he said, and people could bring the product into Nebraska for their own personal use without realizing that the state has prohibited it.

"This amendment is about pure possession and doesn't differentiate between possession and intent to sell," Larson said.

Lincoln Sen. Adam Morfeld supported the amendment, although he remained concerned about university students and others unknowingly violating the ban contained in LB330. However, he said, the current default punishment for possession of a banned substance under state law is even harsher than the penalties contained in Kolterman's amendment.

Other provisions of the bill will make a number of changes to the

state's liquor control laws, including:

- providing tax credits to beer manufacturers who utilize local crops;
- authorizing the Liquor Control Commission to dispose of confiscated alcohol;
- requiring licensure of pedal pubs;
- allowing for the sale of draught beer to patrons of an establishment holding a Class C liquor license;
- allowing liquor licensees 30 days for a late renewal;
- applying laws relating to beer kegs to all kegs containing alcoholic liquor;
- defining hard cider as beer instead of wine;
- removing a prohibition on issuing liquor licenses within 150 feet of a home for the aged; and
- removing a mandatory hearing requirement for license applications within 150 feet of a church.

Hyannis Sen. Al Davis offered an amendment that would have removed the provision defining hard cider as beer instead of wine. He said the provision would benefit large, out-of-state manufacturers and could harm Nebraska craft brewers.

The amendment failed on a 17-10 vote.

An amendment offered by Omaha Sen. Beau McCoy, would have reinstated automatic hearings when an establishment located within 150 feet of a church applies for a liquor license. It also failed on a 13-22 vote.

After four hours of debate May 18, Larson offered a motion to invoke cloture—or cease debate and force a vote on a bill. The motion was adopted 35-5 and the bill advanced to final reading 40-3.

The bill passed May 21 on a vote of 44-1.

GOVERNMENT, MILITARY & VETERANS AFFAIRS

Livestock siting permit standards passed

County officials in Nebraska will have a set of guidelines to use when considering livestock operation proposals under a bill passed May 21.

Introduced by Syracuse Sen. Dan Watermeier, LB106 requires the state Department of Agriculture and a committee of experts appointed by the department director to create an assessment formula



Sen. Dan Watermeier

that county officials may use when considering livestock operation siting permits, conditional use permits and special exception applications.

Criteria used in the formula could include size and type of the operation, proximity to neighboring residences and public use areas, manure storage, public support of the project and odor control practices.

The committee could include up to 10 members representing county board and zoning administrators, livestock production experts and University of Nebraska representatives. The committee is required to review the assessment matrix annually.

Senators passed the bill on a 44-2 vote.

School emergency expenditure bill approved

Schools will be allowed to make emergency expenditures under a bill approved May 20.

Currently when there is a disaster,

emergency or civil defense situation, local governments may make expenditures for emergency management purposes. LB283, introduced by Lincoln Sen. Roy Baker, extends that authority to school districts



Sen. Roy Baker

and educational service units (ESUs).

Prior to making expenditures, a school district or ESU will be required to secure an emergency proclamation from the emergency management director serving the local jurisdiction in which the school or ESU is located.

The public hearing requirement for altering a budget will not apply to emergency expenditures.

LB283 passed on a 48-0 vote and takes effect immediately.

School electronic records bill approved

Schools are allowed to keep records in electronic form under a bill passed May 20.

LB365, introduced by Sen. Roy Baker of Lincoln, allows a school district or Educational Service Unit (ESU) to retain all books, papers, documents, reports, records and minutes of board meetings as electronic records.

The bill passed on a 47-0 vote.

Audit authority strengthened

Lawmakers gave final approval May 21 to a bill intended to strengthen the audit authority of the Legislative Audit Office (LAO) and the state Auditor of Public Accounts (APA).

LB539, sponsored by Syracuse Sen. Dan Watermeier, requires state agencies to respond to a request for information from the LAO or APA within

three business days of the request. For particularly difficult or extensive requests, the agency will have up to three weeks to provide the requested information. Failure to comply with the bill's deadlines or other willful obstruction of an audit is a Class II misdemeanor.

A supervisor or manager who takes retaliatory action against a state or political subdivision employee who provides information to the LAO or APA will be guilty of a Class III misdemeanor and dismissed from employment with the state.

The bill also adds community redevelopment authorities and limited community redevelopment authorities to the list of entities that the APA is empowered to audit. The change gives the APA the ability to audit tax increment financing projects.

The bill includes provisions from three additional bills related to the APA:

- LB503, originally introduced by Omaha Sen. Bob Krist, which authorizes the APA to issue subpoenas;
- LB552, originally introduced by Omaha Sen. Jeremy Nordquist, which clarifies that it is optional for the auditor to prepare a written review of the public retirement system plan reports that must be submitted if a political subdivision's defined benefit plan is underfunded; and
- LB487, originally introduced by Ogallala Sen. Ken Schilz, which



Sen. Bob Krist



Sen. Jeremy Nordquist

allows the APA to examine the books, accounts, vouchers, records and expenditures of any service contractor or subrecipient of state or federal funds.



Sen. Ken Schilz

LB539 passed on a 46-0 vote and takes effect immediately.

HEALTH & HUMAN SERVICES

Child care subsidy adjustments approved

The state's child care subsidy for low-income families will be modified under a bill given final approval May 21.

Introduced by Omaha Sen. Tanya Cook, LB81 will align the subsidy to mirror existing Aid to Dependent Children and Temporary Aid to Needy Families programs.



Sen. Tanya Cook

Under the bill, if a family's income at redetermination of eligibility exceeds 130 percent of the federal poverty level (FPL), the family will continue to receive transitional child care assistance for up to 24 consecutive months or until the family income exceeds 185 percent of FPL. The transitional child care assistance will be based on a sliding scale.

The state Department of Health and Human Services is required to report annually to the governor and the Legislature regarding the number of families in all transitional child care assistance programs and the number

of families no longer eligible due to failure to meet income guidelines.

Lawmakers voted 47-0 to pass LB81.

Medical residency loan program approved

A bill that creates a loan repayment program for medical residents passed May 21.

LB196, introduced by Lincoln Sen. Kathy Campbell, amends the Rural Health Systems and Professional Incentive Act by creating a resident loan repayment program.



Sen. Kathy Campbell

Under the bill, a qualified applicant must be enrolled or accepted in an approved medical specialty residency program in Nebraska and agree to one year of full-time practice in a designated health profession shortage area. The medical resident also is required to accept Medicaid patients in his or her practice.

Loan repayment is limited to \$40,000 per each year of residency, not to exceed \$120,000 per recipient. A resident who does not adhere to the terms of the act will be required to repay the state 150 percent of the outstanding loan principal at an 8 percent annual interest rate from the date of default.

The bill also increases the financial assistance limits of two existing programs under the act.

Limits on student loans increase from \$20,000 to \$30,000 per year, not to exceed \$120,000 for medical, dental or doctoral-level mental health students. Limits on loan repayment for physicians, dentists and psychologists increase from \$20,000 to \$30,000 per year of full-time practice in a designated health profession shortage area,

not to exceed \$90,000 per recipient.

Loan repayment limits also increase from \$10,000 to \$15,000 per year, not to exceed \$45,000 per recipient, for physician assistants, nurse practitioners, pharmacists, physical therapists, occupational therapists and mental health practitioners.

Any repayment obligations under the act will be cancelled in the event of a recipient's total and permanent disability or death.

LB196 passed on a 48-0 vote.

Social work student stipends approved

Lawmakers gave final approval May 21 to a bill that establishes a stipend program for students who commit to work in the state's child welfare system.

LB199, introduced by Omaha Sen. Sara Howard, authorizes use of Title IV-E funds to pay for social work student stipends. The state Department of Health and Human Services will develop an application process and determine stipend amounts for eligible students in collaboration with the governing boards of colleges and universities with social work programs.

The bill passed 45-0.

Funding lowered, family finding pilot project approved

A bill that creates a pilot project to establish family connections for state wards was amended May 19 and approved May 21.

LB243, introduced by Lincoln Sen. Kate Bolz, creates a four-year statewide pilot program to provide family find-

ing services in at least two service areas. The state Department of Health and Human Services will provide oversight and contract with providers to carry out the program.

The department also is required to establish a data collection system and contract with an academic institution to complete an independent evaluation of the pilot project's effectiveness.

Bolz offered a motion May 19 to return the bill to select file for an amendment that provides a cost savings for the first two years of the pilot project. The amendment reduces funding to the program from \$1.5 million per year in fiscal years 2015-16 and 2016-17 to \$750,000 each year.

Omaha Sen. Heath Mello supported the amendment, saying it reflected the effort that many senators had made to lower the fiscal cost of their bills to enable more of them to be approved this year.

Bolz said the intention was to have a slower start-up to the project, which would lower the bill's fiscal impact while still helping children find permanency with family members.

"That is why I'm willing to change the scope and the scale of this bill," she said.

Senators adopted the amendment 41-0 and voted 32-2 to re-advance the bill to select file.

The bill passed May 21 on a vote of 39-5.

Sign language interpreter licensure expanded

Lawmakers gave final approval May 20 to a bill that expands licensure requirements for sign language interpreters.



Sen. Kate Bolz

LB287, sponsored by Malcolm Sen. Ken Haar, requires all interpreters to obtain licensure by Jan. 1, 2016, and pay a licensure fee established by the commission. An individual or entity providing interpreting services without a license after that date will be subject to a civil penalty of up to \$500 for each offense.

Interpreting services will be exempt from the licensure requirement if conducted:

- as part of a religious service;
- in a health care emergency until a licensed interpreter could be obtained;
- by a student under the direct supervision of a licensed interpreter;
- by an educational interpreter working under regulation of the state Department of Education; or
- by an individual licensed in another state who is awaiting commission approval in Nebraska.

LB287 also creates a licensure category for video remote interpreting services.

The bill passed 48-0.

Guidelines for Medicaid recovery audits advanced

Senators advanced a bill from general file May 20 that would set guidelines for Medicaid recovery audits in Nebraska.

Omaha Sen. Sara Howard, sponsor of LB315, said the bill was introduced following complaints from dentists regarding onerous audit requirements. The Affordable Care Act requires Medicaid audits by a Recovery Audit Contractor (RAC), she said.



Sen. Ken Haar



Sen. Sara Howard

“Some providers testified that if this process was not changed, they’d be forced to give up providing services to Medicaid patients,” Howard said.

A Health and Human Services Committee amendment, adopted 30-0, replaced the bill. Lincoln Sen. Kathy Campbell, chairperson of the committee, said the amendment reflects changes and clarifications resulting from a compromise between the state Department of Health and Human Services (DHHS) and the Nebraska Dental Association.

Among other provisions, the amended bill would:

- clarify that only one audit may be conducted at a time;
- exclude from review claims otherwise audited;
- require claim review within two years of the date of payment;
- align the appeals process with DHHS practice;
- require procedures for re-billing corrected claims; and
- require audit completion within 60 days of receipt of all requested material.

Seward Sen. Mark Kolterman supported the bill and the amendment. The state needs to perform audits, he said, but the current RAC audit process has been unreasonably implemented.

“We’re losing dentists that want to take care of Medicaid patients simply because they don’t want to go through this nonsense,” Kolterman said.

Following adoption a technical amendment offered by Howard on a 28-0 vote, senators advanced LB315 to select file 29-0.

Aging and disabled, Alzheimer’s bill passed

A bill seeking to improve access to existing services and support for

Nebraskans who are aging or disabled, including those suffering from Alzheimer’s and related illnesses, passed May 21.

LB320, introduced by Lincoln Sen. Kate Bolz, establishes three demonstration projects for Aging and Disability Resource Centers (ADRC) to evaluate the feasibility of establishing such centers statewide.



Sen. Kate Bolz

The state Department of Health and Human Services (DHHS) is required to award ADRC grants to area agencies on aging to participate in the demonstration project. Agencies will be chosen based on a proposal process and will be reimbursed for their participation.

Among other services, the demonstration project centers will provide:

- personal options counseling;
- mobility management;
- a home care provider registry; and
- assistance in accessing and applying for public benefits programs.

DHHS is required to contract for an evaluation of the project, and report annually to the Legislature through Dec. 1, 2018.

The bill also includes provisions of LB405, originally introduced by Hyannis Sen. Al Davis, which require the Aging Nebraskans Task Force to develop a state plan to address the needs of individuals with Alzheimer’s and related disorders.



Sen. Al Davis

The task force will deliver the plan to the governor and the Legislature by Dec. 15, 2016. The bill also extends

the task force termination date to Jan. 1, 2017, to accommodate work on the state plan.

In developing a state plan, the task force will:

- determine existing services and resources in the state;
- develop recommendations to respond to escalating needs;
- examine quality of care measures for service delivery; and
- develop strategies to identify gaps in services.

The bill passed 42-3 and takes effect immediately.

Medicaid personal needs allowance increased

Lawmakers passed a bill May 21 that increases the personal needs allowance by \$10 for Medicaid eligible individuals who reside in an alternative living arrangement.

LB366, introduced by Lincoln Sen. Patty Pansing Brooks, increases the personal needs allowance from



Sen. Patty Pansing Brooks

\$50 to \$60 per month.

The bill passed 37-8.

Health care provider advertising guidelines advanced

A bill intended to ensure that patients have accurate information about health care provider credentials advanced from general file May 20.

LB452, introduced by Omaha Sen. Robert Hilke man n , would amend



Sen. Robert Hilke man n

the Uniform Credentialing Act to require that any credential holder's advertisement for health care services must identify the type of credentials held by the health care provider. The use of deceptive advertising would be prohibited.

Hilkemann said the bill would provide consumers with clarity regarding the education and expertise of providers when making health care decisions.

"The bill will create a baseline by which all health occupations and professions regulated under the Uniform Credentialing Act can follow as a guide in their health care advertisements," he said.

The bill advanced to select file 26-0.

Medicaid payment for juvenile multisystemic therapy approved

A bill that authorizes Medicaid reimbursement for a therapy used to assist troubled Nebraska youth passed May 21.

LB500, sponsored by Omaha Sen. Sara Howard, would have directed the state Department of Health and Human Services (DHHS) to submit an application by July 1, 2015, to the Centers for Medicare and Medicaid Services for a state plan amendment to provide payment for multisystemic therapy (MST), functional family therapy and in-home family services for youth who are eligible for both Medicaid and the Children's Health Insurance Program.

Howard offered a motion May 19 to return the proposal to select file to consider an amendment to move the application deadline to May 1, 2016,



Sen. Sara Howard

and to limit the bill's provisions to MST only. While all three therapies would be "game changers" for the state's youth and families, she said, fiscal realities forced the change.

"I feel a fiduciary responsibility to be conscious of the challenges we have faced in our budget-setting process," Howard said, which means taking a slower approach to implementing the changes outlined in LB500.

Omaha Sen. Heath Mello supported the amendment, saying it reflects a consensus reached by all three branches of government.

Mello said there had been some disagreement regarding the short- and long-term costs of implementing the bill, but that all parties had agreed on the need to move forward with Medicaid payment for MST.

"The challenge that we've been wrestling with is what the real fiscal impact is," he said.

Sen. Bob Krist of Omaha also supported the amendment. The new head of DHHS has experience with implementing the new therapies, he said, and has urged senators to go slowly with the implementation process.

"We've been professionally counseled about the way to make this program a success," Krist said.

Senators voted 31-0 to adopt the amendment and re-advanced LB500 to final reading by voice vote. The narrowed bill received final approval May 21 on a 40-1 vote.

Child care funding guidelines approved

Senators gave final approval May 21 to a bill that provides funding guidelines for child care grants.

LB547, introduced by Lincoln Sen. Kathy Campbell, amends the Quality Child Care Act relating to federal Child Care and Development Block

Fund Grants (CCDBG) and sets a funding schedule according to federal reauthorization amounts.

The federal government previously required states to spend a minimum of 4 percent of CCDBG funds on efforts that improve the quality of licensed child care. In 2014, the program's reauthorization increased that minimum to 7 percent in fiscal year 2015-16, 8 percent in FY2017-18, and 9 percent in FY2019-20 and subsequent years.

LB547 requires the state Department of Health and Human Services to allocate these higher required minimum percentages to early childhood education programs. Funds will be split between the Early Childhood Education Endowment Cash Fund—commonly known as Sixpence—and incentives and support for programs under the Step Up to Quality Child Care Act.

The bill also incorporates LB489, introduced by Cedar Rapids Sen. Kate Sullivan, which expands eligibility for Sixpence grants to early childhood education programs and school districts if the child care provider enrolls in the Step Up to Quality Child Care Act system prior to the grant period.

Child care providers also will be required to participate in training approved by the Early Childhood Training Center. Any school district entering into agreements with child care providers under the bill will be required to employ or contract with a program coordinator who holds a certificate.



Sen. Kathy Campbell



Sen. Kate Sullivan

Programs receiving grants will be required to obtain a rating of step three or higher on the quality scale within three years of the start date of the initial grant program and maintain that rating to continue to receive funding.

The bill passed on a 42-0 vote.

Aid to dependent children increase approved

A bill intended to increase payments in the state’s Aid to Dependent Children (ADC) program passed May 21.

The bill, originally introduced as LB89 by Lincoln Sen. Kathy Campbell, was passed by the Legislature April 23 and subsequently was vetoed by Gov. Pete Ricketts.



Sen. Kathy Campbell

Campbell and the governor reached a compromise after the veto and senators gutted LB607, replacing it with the altered provisions from her bill.

LB607 increases the maximum monthly ADC payment to 55 percent of the standard of need.

The bill also contains provisions of LB335, originally introduced by Omaha Sen. Heath Mello, which establish a task force to study intergenerational poverty in Nebraska.



Sen. Heath Mello

The task force includes the chairpersons of the Health and Human Services and Appropriations committees as well as three at-large members appointed by the Executive Board of the Legislative Council.

Nonvoting members will include representatives from the state departments of Labor, Health and Human Services and Education as well as a

variety of community stakeholders and policy experts.

The task force will analyze the ADC, Supplemental Nutrition Assistance, child care assistance and Employment First programs with a focus on helping children escape the cycle of poverty. A preliminary report will be presented to the Legislature and the governor by Dec. 15, 2015, and a final report—including a long-range strategic plan—by Dec. 15, 2016.

LB607 passed 45-0.

JUDICIARY

Out-of-home juvenile placement measure passed

A bill concerning collection and management of information about juveniles in out-of-home care was amended May 19 and passed May 21.

Introduced by Lincoln Sen. Kathy Campbell, LB265 makes a number of changes relating to juveniles and child welfare, including:

- establishing a pilot project to demonstrate how state agency data can be used by state offices to oversee juveniles in out-of-home care;
- permitting the Foster Care Review Office or local board to participate in a foster care placement dispositional hearing; and
- defining a young adult as older than 18 but younger than 21.

Provisions of Omaha Sen. Bob Krist’s LB13 were amended into the bill, which set aside 10 percent of the annual General Fund appropriation for



Sen. Bob Krist

the Community-based Juvenile Services Aid Program to develop data and evaluate the effectiveness of the program. The provisions require recipients to submit annual reports to the University of Nebraska at Omaha’s Juvenile Justice Institute.

An amendment introduced by Krist on select file, adopted 37-0, removed a provision that would have extended the juvenile court’s jurisdiction to those young adults up to age 21 who were under age 18 when the offense was committed.

Krist said he wanted to delay the extension of services to juveniles after discussing possible alternatives with Courtney Phillips, the new chief executive officer of the state Department of Health and Human Services. Removing the provision reduced the bill’s fiscal note by nearly \$1 million, he said.

The amendment also requires that if a court orders that a juvenile’s record be sealed, all information in the record is to be deemed never to have occurred. A subject of a sealed record is permitted to respond to any public inquiry as if the offense resulting in the record never occurred. The bill also specifies who may access the sealed record and the purposes for which the record may be inspected.

Senators advanced the bill to final reading May 19 on a voice vote.

The bill passed May 21 with an emergency clause 45-1.

Child offender registry restrictions passed

A bill intended to prevent children from mistakenly being registered as child abuse offenders passed May 21.

Introduced by Lincoln Sen. Colby Coash, LB292 prohibits youth ages 11 and younger from being placed on the child abuse offender registry. Only youth ages 12 and older designated

as agency- or court-substantiated can be entered into the registry under the bill.

The state Department of Health and Human Services is required to submit an annual report providing the number, ages and classification of youth entered in the registry to the governor and the Legislature's Health and Human Services and Judiciary committees.

The bill also requires the department to notify court- and agency-substantiated subjects ages 12 to 18 who are entered into the registry that a mandatory expungement hearing has been scheduled. Unless waived, hearings will be conducted within 60 days after the subject receives the notification and within 60 days after the subject's 19th birthday.

Another provision of the bill, incorporated from Coash's LB290, removes a requirement that registered sex offenders provide information and report changes regarding their email address list, Internet communication identifiers, domain names and blogs and websites that they write or maintain.

Lawmakers passed the bill on a 46-0 vote.

Juvenile services oversight expanded

Oversight of the state's juvenile justice system will change under a bill passed May 21.

Introduced by Sen. Bob Krist of Omaha, LB347 expands the jurisdiction of the Office of the Inspector General of Nebraska Child Welfare (OIG) to oversee the state's Juvenile Services Division of the Office of Probation Administration.



Sen. Colby Coash

Currently, the OIG conducts audits, inspections and other reviews of the state's child welfare system.

The bill authorizes the OIG and state Foster Care Review Office to access confidential records and allows the OIG access to video testimony from a child victim or witness describing sexual assault or abuse. LB347 also permits courts to identify the OIG as an entity permitted to disclose confidential information.

The measure authorizes the OIG to submit a written request for records of juvenile probation officers when investigating cases of death or serious injury. The records must be provided within five days of Supreme Court approval.

Senators passed the bill 47-0.

Medical marijuana pilot study passed

Medical marijuana will be available in Nebraska on a limited basis under a bill amended May 18 and passed May 21.

Introduced by Bellevue Sen. Sue Crawford, LB390 creates a pilot study at the University of Nebraska Medical Center (UNMC) to allow access to low-tetrahydrocannabinol (THC) oil for patients who suffer intractable or treatment-resistant seizures.

The bill authorizes the University of Nebraska and Nebraska Medicine to be Nebraska's only producers and possessors of cannabidiol for research. The cannabidiol may contain up to three-tenths percent of THC, the active ingredient of the cannabis plant. Practitioners, patients and their parents or legal guardians participating



Sen. Sue Crawford

in the study are exempt from prosecution for possession of a controlled substance.

The study will designate at least two physicians, one of whom must be a pediatric neurologist, to conduct research on the safety and preliminary effectiveness of cannabidiol use. The physicians are responsible for determining patient eligibility for participation in the study.

UNMC is required to submit a report annually to the Judiciary and Health and Human Services committees of the Legislature, beginning Sept. 15, 2016. The report will include the number of patients currently and previously enrolled in the study, changes in intractable seizure frequency and severity, adverse effects of treatment and a summary of appropriate dosing.

During general file debate, Crawford said the Food and Drug Administration (FDA) recently has given preliminary approval to a pharmaceutical-grade cannabinoid drug that UNMC would be permitted to prescribe legally. The bill provides a framework that allows patients immediate access to a drug that has proven effective to reduce seizures for treatment-resistant children, she said, while giving the medical community the opportunity to collect data on the drug's efficacy.

"There are no other options for many of these patients," Crawford said. "This allows for compassionate care as quickly as possible."

Sen. Matt Williams of Gothenburg supported the bill, saying it represents an organized and controlled strategy to dispense and research a largely experimental drug.

"This is the systematic way to move forward with [medical] marijuana in our state," Williams said.

Ralston Sen. Merv Riepe opposed the bill. Because the measure will affect only a small number of patients,

he recommended that UNMC could save time and funds by consulting other states that are conducting similar studies.

Sen. Dave Bloomfield of Hoskins said that any positive result will justify the effort to undertake the pilot study.

“One child having one less seizure—that is success,” he said in support of the bill.

Bancroft Sen. Lydia Brasch expressed concerns that the state will be dispensing a drug that had not yet been fully approved by the FDA.

Lincoln Sen. Adam Morfeld introduced an amendment to the committee amendment to incorporate provisions of his LB546, which exempts an individual from prosecution who prescribes or dispenses naloxone, a morphine-like synthetic drug, to a person experiencing an opioid-related overdose.



Sen. Adam Morfeld

Morfeld said fatal drug overdoses—many from prescription painkillers—have increased sixfold over the past 30 years, claiming the lives of more than 36,000 Americans annually. Twenty-eight states already have passed laws that increase access to the life-saving drug, he said.

“This drug is not in enough hands to save as many lives as it can,” Morfeld said.

The Morfeld amendment also added provisions of LB326, introduced by Williams, which updated the state’s Uniform Controlled Substances Act to prohibit the newest compounds of synthetic cannabinoids, also known as K2.



Sen. Matt Williams

Williams said a recent surge in

synthetic marijuana overdoses in Lincoln illustrates the need for the Legislature to continually revise the list of controlled substances.

“This is a serious problem—and one we can address by updating these chemical compositions,” Williams said.

Senators adopted the amendment on a 32-1 vote.

A Judiciary Committee amendment replaced the bill and removed a provision that would have appropriated \$250,000 in fiscal years 2015-16 and FY2016-17 from the state’s General Fund for the cannabidiol research study. Funding for the study instead will come from the state Health Care Cash Fund. Senators adopted the committee amendment 36-1.

Senators also adopted a technical amendment and advanced LB390 from general file May 18 on a 33-1 vote. The bill advanced to final reading on a voice vote May 19.

Senators passed LB390 with an emergency clause May 21 on a 44-2 vote.

Native children’s placement procedures updated

Native children’s culture will be more carefully considered when making foster care placements under a bill passed May 21.

Introduced by Lincoln Sen. Colby Coash, LB566 changes provisions of the federal Indian Child Welfare Act (ICWA) to clarify the responsibilities of Nebraska child welfare providers.



Sen. Colby Coash

The bill ensures that Native American tribes have representation in custodial proceedings involving native children. Those efforts will include:

- exhausting all available tribally appropriate family preservation

alternatives;

- expanding the definition of an expert witness in a child custody proceeding to include qualified members of tribes other than the child’s;
- engaging tribally designated state ICWA representatives; and
- assisting and monitoring a family’s access to culturally appropriate resources of the child’s extended family, tribes and caregivers.

Senators passed the bill on a 45-0 vote.

Lawmakers pass inmate confinement reform

Senators passed a bill May 21 that revises inmate confinement policies for Nebraska’s prisons.

Introduced by Sen. Paul Schumacher of Columbus, LB598 requires the state Department of Correctional Services, beginning July 1, 2016, to use the least restrictive



Sen. Paul Schumacher

manner consistent with maintaining institutional order when separating inmates from the general prison population.

The bill permits restrictive housing, defined in the measure as housing that provides limited contact with other inmates and limited out-of-cell time. LB598 prohibits solitary confinement which, as defined in the bill, deprives an inmate of all visual and auditory contact with other inmates.

Schumacher said hearings conducted in 2014 by a special investigative committee revealed that a lack of regulations regarding solitary confinement led to Nikko Jenkins being isolated for more than half of his incarceration.

Testimony showed that Jenkins’ time in segregation likely did psycho-

logical damage and contributed to him killing four people in Omaha following his release from the Nebraska State Penitentiary in 2013, Schumacher said.

The bill requires the department director to submit a report to the governor and the Legislature that outlines a long-term plan for the use and reduction of restrictive housing.

Due by July 1, 2016, the report will include the behavior, conditions and mental health status under which an inmate will be placed in each confinement level and regulations for transitioning inmates back to the general prison population or to society.

Additionally, the director is required to report annually by Sept. 15 to the governor and the Legislature:

- the number of inmates in restrictive housing;
- reasons for separation from the general population;
- whether those inmates have been diagnosed with mental illness;
- the number of inmates released from restrictive housing directly to parole or the community;
- the number of inmates placed in restrictive housing for their own safety;
- the length of time held in restrictive housing; and
- comparable statistics for the nation and each of Nebraska's bordering states pertaining to restrictive housing.

LB598 also creates a long-term restrictive housing work group, consisting of the department director and other department officials, mental health professionals and prisoners' rights advocates appointed by the governor.

The group is required to meet no later than Sept. 15, 2015, and at least semiannually thereafter and will advise the department on treatment and care of offenders in long-term restrictive housing.

Provisions of LB606, introduced by Omaha Sen. Heath Mello, create the Office of Inspector General of the Nebraska Correctional System. The inspector general will be appointed and supervised by the Office of Public Counsel and serve a five-year term.



Sen. Heath Mello

Duties of the inspector general will include conducting investigations of misconduct and death or serious injuries, audits, inspections and other reviews of the Nebraska correctional system. The inspector is required to provide a summary of all reports and investigations to the Judiciary Committee and governor by Sept. 15 each year.

Provisions of LB606 also require the governor, beginning July 1, 2020, to declare an overcrowding emergency when the director of correctional services certifies that the prison population is over 140 percent of design capacity. Declaration of an overcrowding emergency mandates that the state Parole Board immediately consider or reconsider all eligible inmates for parole.

Currently, the governor has the option whether or not to declare an emergency when the population reaches the 140 percent threshold.

Incorporated provisions of LB592, introduced by Lincoln Sen. Kate Bolz, require the department to administer a mental health evaluation of all inmates within the first two weeks of their incarceration. The department is required to treat mentally ill inmates and re-evaluate them prior to release.



Sen. Kate Bolz

The chief executive officer of a correctional facility is now authorized to segregate or transfer mentally ill and dangerous inmates to a psychiatric facility outside of the department. Additionally, the department's Parole Administration Office will be within the state Board of Parole beginning July 1, 2016.

Senators passed LB598 on a 47-0 vote.

Correctional system reforms passed

Lawmakers approved extensive revisions to Nebraska's correctional system May 21.

Introduced by Omaha Sen. Heath Mello, LB605 makes numerous changes to Nebraska's penal system.

The policy changes were recommended to the Nebraska Justice Reinvestment Working Group—created by LB907 in 2014—through a report provided by the Council of State Governments Justice Center. These changes include:

- requiring the Office of Parole Administration to establish a process to determine the risk a parolee may pose to a community and the level of supervision required;
- creating the Committee on Justice Reinvestment Oversight to develop and review Nebraska's criminal justice policies;
- requiring that all sentences of one year or more be served in a state prison and sentences less than one year be served in a county jail;
- appropriating \$30,000 to the Nebraska Supreme Court to create a sentencing information database;
- adding a new felony classification and penalties;

- updating property offense amount thresholds to account for inflation;
- requiring the Board of Parole to create regulations to reduce the number of offenders released from prison without supervision;
- requiring the board and state Department of Correctional Services to annually report the number of offenders on unsupervised release to the Legislature, governor and Supreme Court;
- requiring the department and Probation Administration to prepare a post-release supervision plan for each offender released on probation;
- requiring the department and state court administrator to create regulations regarding restitution payment and requiring the department to report annually to the Legislature on the collection of restitution from inmate wage funds; and
- increasing the maximum compensation from \$10,000 to \$25,000 allowed from the Victim Compensation Fund.

The bill also addresses how probation violations will be punished, restitution payment rates and how criminal history information will be disseminated.

Courts are required to set maximum and minimum sentence limits provided by the law for all felony classes except Class III, IIIA and IV. For an indeterminate sentence, the court must advise an offender of the minimum imprisonment to be served before attaining parole eligibility and the maximum time to be served prior to mandatory release.

For a determinate sentence, the court must advise an offender of the

imprisonment to be served prior to a term of post-release supervision and the length of the supervised term to be served before mandatory release.

Offenders convicted of Class III, IIIA or IV felonies could be imprisoned within the applicable range and serve a sentence of post-release supervision, unless probation is required.

The bill authorizes the Legislature to appropriate \$500,000 to a fund designed for use by county jails to offset costs from potential population increases caused by implementation of LB605. Funds cannot be used for capital construction or the lease or acquisition of facilities.

Senators passed the bill 45-0.

NATURAL RESOURCES

Limited liability for agritourism passed

Senators passed a bill May 21 that is intended to remove obstacles for landowners wishing to host farm tours and events.

Under LB329, introduced by Ogallala Sen. Ken Schilz, any owner who allows visitors on their land to participate in agritourism activities will not be liable for injury or death of a visitor resulting from inherent risk. Visitors must be warned of potential dangers by a sign or in a contract by any owner that charges a fee for visitors to participate.

Agritourism activities can include hunting, fishing, horseback riding, camping, birding, farm, ranch and vineyard tours, harvest-your-own activi-



Sen. Ken Schilz

ties, boating and other water sports.

The bill defines inherent risk as any condition, danger or hazard that is an integral part of land or water used for agritourism, including:

- surface and subsurface conditions and natural conditions of land, vegetation and waters;
- the behavior of wild or domestic animals;
- the ordinary dangers of structures or equipment ordinarily used in farming or ranching when such structures or equipment are used for farming or ranching purposes; and
- the potential of a participant to act in a negligent way that may contribute to injury of the participant or others.

Inherent risk does not include any act or omission of information that occurred while a person was under the influence of alcohol or illegal drugs, or any other illegal activity or action.

Liability is not limited for any owner who knows of potential dangers and takes no action to correct those issues. Owners are liable for any actions that constitute intentional or willful gross negligence.

Any owner who fails to properly train or supervise employees actively engaged in agritourism activities will be held liable under LB329.

The bill passed on a 46-0 vote.

State energy plan assessment adopted

Senators passed a bill May 21 that allows the state to develop an independent energy plan.

LB469, introduced by Papillion Sen. Jim Smith, directs the State Energy Office to assess any state energy



Sen. Jim Smith

plan before submitting the plan to the federal Environmental Protection Agency for review.

The energy office will prepare a report analyzing the proposed state energy plan's effects on employment within the state and the electric power sector, including the potential impact on the:

- type and amount of electric generating capacity that is likely to retire or switch to another fuel;
- stranded investment in electric generating capacity;
- amount of investment necessary to offset the retirement of electric generating capacity;
- potential risks to electric reliability; and
- amount by which retail electricity prices are forecast to increase or decrease.

The bill includes provisions of LB583, originally introduced by Ogallala Sen. Ken Schilz, specifying the areas of analysis for a state energy plan to be developed by the State Energy Office. The plan will focus on strategies to develop a cost-competitive energy supply, access to affordable energy, sustainable economic growth and job creation.

The bill passed on a 43-1 vote.



Omaha school retirement plan changes stall

Senators bracketed a bill May 19 that proposed several changes to the Omaha school retirement plan. Omaha Public Schools (OPS) is the only district in the state that has its own retirement plan.

As introduced by Omaha Sen. Jer-

emy Nordquist, LB448 would have made current and new Class V (Omaha) school employees members of the School Employees Retirement System of the state of Nebraska.



Sen. Jeremy Nordquist

During general file debate May 18, Nordquist said he introduced the bill as a placeholder to begin discussions on merging the Omaha school plan with the statewide system.

A Retirement Systems Committee amendment, adopted 25-17, became the bill. Nordquist said the amendment contains several significant components that would bring the two retirement systems closer to a potential merger in the future.

Among other changes, the amendment would further align Omaha member benefits with statewide school employee benefits by limiting the state service annuity and medical cost of living increase to individuals who were members prior to July 1, 2015. It also would raise the normal retirement age for Omaha school members from 62 to 65.

In addition, the amendment would:

- move investment authority from the Omaha board of trustees and Omaha school board to the Nebraska Investment Council;
- restructure the administration and governance of the Omaha system to more closely align with the Public Employee Retirement Board's governance of the statewide system; and
- create greater state funding parity between the two systems.

Nordquist said the amendment was the result of extensive negotiations

and was intended to reduce benefits and ensure professional management of investments to further secure the state's largest school district's retirement plan.

"This is to make sure that both plans are headed in the right direction," he said.

Seward Sen. Mark Kolterman offered an amendment to the committee amendment to eliminate a requirement that if the state transfers funds to meet a shortfall in the statewide school retirement system, a proportional transfer would be made to the Omaha system.

While both plans currently are adequately funded, Kolterman said, he had concerns about making the state responsible for possible future shortfalls in the Omaha system.

"In principle, I support many aspects of this bill," he said. "I think it would be good if we could eventually merge the two plans together and have the same plan for all teachers in the state."

Nordquist opposed the amendment, saying the provision does not mean that the state automatically would transfer funds to the Omaha system. There are many options in the event of a future shortfall, he said, including reducing benefits or increasing contribution rates. The state does not have a history of using general funds to fill shortfalls in retirement systems, he said.

Omaha Sen. Heath Mello agreed, saying the provision simply would ensure parity between the two systems. Because LB448 would move investment authority for the Omaha system to the state, he said, it would make sense to align future responsibility for those investments as well.

"In the last six years, we've set the precedent of treating both of these plans consistently," Mello said. "This

should be the state policy moving forward.”

The Kolterman amendment failed 21-17. Twenty-five votes were needed.

The bill advanced to select file on a 25-19 vote.

Nordquist offered an amendment during select file debate May 19 to remove the required proportional transfer to the Omaha system if the state transfers general funds to meet a shortfall in the statewide school system.

Under the amendment, adopted 27-10, the Appropriations Committee would hold a hearing to consider transferring the funds.

Nordquist called the amendment an “olive branch” to attempt to keep the bill moving forward, given concerns that were raised during general file debate. The likelihood of such a transfer being necessary are remote, he said, while the benefit reduction portions of the bill are important and would save state tax dollars.

“We’ve got a lot of concessions here [from OPS],” Nordquist said. “At the end of the day, if that’s not sufficient, that’s fine by me.”

Kolterman countered with an amendment that instead would have allowed OPS to increase their levy limit to pay for school district contributions in the event of a retirement system shortfall—known as an actuarially required contribution (ARC).

“I just do not see why taxpayers that don’t reside in the Omaha Public Schools [district] should be on the hook for any financial liabilities for an ARC that could occur,” Kolterman said.

Norquist opposed the amendment, saying adoption of his previous amendment had removed any automatic liability for Nebraska taxpayers. The Kolterman amendment instead would raise property taxes for those

in the OPS district, he said.

The amendment failed 17-18.

O’Neill Sen. Tyson Larson then offered a motion to bracket the bill until April 15, 2016, saying the state cannot afford to continue to support defined benefit pension plans.

Nordquist did not object to the bracket motion and it was approved by unanimous consent, effectively ending debate on LB448.

REVENUE

Mechanical amusement devices to be taxed

Operators of mechanical amusement devices will face an additional tax under a bill passed by the Legislature May 21.

LB70, introduced by Columbus Sen. Paul Schumacher, imposes the tax—10 percent of the gross revenue derived from the operation of the device—on any business operating such a device.



Sen. Paul Schumacher

Mechanical amusement device, as defined in state statute, includes any machine in which a person plays a game by inserting some form of currency, a prize is paid and the results are determined by chance.

The bill applies to mechanical amusement devices that:

- accept currency, coins, tokens or other value in exchange for play;
- award a monetary prize or anything redeemable for a monetary prize;
- are played by a player using a touch screen, computer mouse, touch pad, light pen, laser or

device of similar function by which the player competes against software running the device; and

- have not been adjudicated by a court of competent jurisdiction within the state of Nebraska to not constitute a gambling device.

Included are game and draw lotteries and coin-operated automatic musical devices. The bill does not apply to vending machines or pickle card dispensing machines.

Any operator of a mechanical amusement device can apply for an exemption from the tax. To receive the exemption, an operator will be required to apply to the tax commissioner for a determination that the device does not constitute illegal gaming.

Senators passed the bill on a 35-11 vote.

Increased angel investment tax credits approved

Senators passed a bill May 21 that increases tax credits available to business investors.

Currently, investors can apply for up to \$3 million in annual refundable tax credits for investments made in a business with at least 51 percent of its workforce and payroll in Nebraska and 25 or fewer employees primarily engaged in researching, developing or using products and services in the high-tech field.

LB156, introduced by Gering Sen. John Stinner, increases the annual maximum available amount of the angel investment tax credit to \$4 million.



Sen. John Stinner

According to state statute, the high-tech field includes aerospace, agricultural processing, renewable

energy, energy efficiency and conservation, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, telecommunications, biosolutions, medical device products, pharmaceuticals, diagnostics, biologicals, chemistry and veterinary science.

To qualify for tax credits, an individual must invest at least \$25,000 in a calendar year and qualified funds—composed of three or more investors—are required to invest at least \$50,000.

Refundable credits equaling 35 percent of the investment are granted to investors with caps of \$350,000 for married couples filing joint returns and \$300,000 for all other filers.

Refundable credits of 40 percent are offered for investments made in a business located in a distressed area, which is defined as a city, a county with a population of fewer than 100,000 residents, an unincorporated area within a county or a census tract that has an unemployment rate that exceeds the statewide average, a per capita income below the statewide average or a population decrease between the two most recent censuses.

The bill passed on a 46-0 vote.

Allocation of future Internet sales tax approved

Senators passed a bill May 21 that allocates potential tax revenue derived from Internet transactions.

Federal legislation to authorize states to collect sales tax on all Internet transactions is currently pending. LB200, introduced by Hyannis Sen. Al Davis, allocates the first year of sales tax revenue on such transactions to the



Sen. Al Davis

state's Property Tax Credit Cash Fund upon approval of the federal legislation.

The provisions of the bill terminate three years after implementation.

The bill passed on a 47-0 vote.

Personal property tax exemption adopted

Lawmakers passed a bill May 21 that provides a tax exemption on the first \$10,000 of personal property.

LB259, introduced by Grand Island Sen. Mike Gloor, exempts the first \$10,000 of personal property for each personal property tax return filed with a county assessor.



Sen. Mike Gloor

It prohibits the inclusion of tangible personal property valued at less than \$1,000 from any exemption filed.

The bill creates a compensating exemption factor for companies that are centrally assessed by the state to be used in determining the tax exemption for those companies.

The bill passed on a 47-0 vote.

Fire districts authorized to levy taxes

A bill passed by the Legislature May 21 authorizes rural and suburban fire districts to levy property taxes.

Currently, counties decide whether to allocate property tax funds to fire districts. LB325, introduced by Hyannis Sen. Al Davis, provides for a maximum levy of 10.5 cents per 100 dollars of taxable valuation located within the fire district.

A fire district is eligible for levy authority only if it is located within a county that had a levy of at least 40 cents in the previous year or did not authorize any levy authority to the

district in the previous year.

The bill passed on a 40-2 vote.

Tax exemption approved for zoo and aquarium fees

Membership and admission fees for zoos and aquariums will be tax exempt under a bill passed by the Legislature May 21.

LB419, introduced by Omaha Sen. Heath Mello, exempts the sale of zoo memberships and daily admission fees. It defines a qualifying zoo or aquarium as one that is operated by a public agency or nonprofit corporation primarily for educational, scientific or tourism purposes.



Sen. Heath Mello

The bill passed on a 39-5 vote.

Ongoing tax incentive evaluations approved

Senators passed a bill May 21 that requires regular evaluation of the state's tax incentive programs.

LB538, introduced by the Performance Audit Committee, creates an ongoing evaluation process for all current and future tax incentive programs enacted for the purpose of recruiting or retaining businesses in Nebraska.

The Legislature's Performance Audit Office will develop and publish a schedule for conducting the evaluations, ensuring that each program is reviewed at least once every three years.

Each evaluation of a tax incentive program will analyze program-specific goals and economic and fiscal impacts of the program and recommend changes to evaluation procedures that will allow for easier evaluation in the future.

Eight current programs also will be

evaluated under LB538, including the:

- Angel Investment Tax Credit Act;
- Beginning Farmer Tax Credit Act;
- Nebraska Advantage Act;
- Nebraska Advantage Microenterprise Tax Credit Act;
- Nebraska Advantage Research and Development Act;
- Nebraska Advantage Rural Development Act;
- Nebraska Job Creation and Mainstreet Revitalization Act; and
- New Markets Job Growth Investment Act.

The bill establishes a sunset date of Dec. 31, 2019, for certain incentives under the Nebraska Advantage Act, Nebraska Advantage Rural Development Act and the New Markets Job Growth Investment Act.

The bill passed on a 46-0 vote.

Tax-free savings for the disabled approved

Senators passed a bill May 21 that authorizes tax-free savings accounts for disabled individuals in Nebraska.

LB591, introduced by Lincoln Sen. Kate Bolz, establishes Achieving a Better Life Experience (ABLE) accounts for individuals with disabilities that developed prior to age 26. ABLE accounts offer tax-free savings options for education, housing, assistive technology and other needs.



Sen. Kate Bolz

Under a qualified program, any person may make contributions to an account to meet the qualified disability expenses of the designated beneficiary of an account.

The state investment officer will have fiduciary responsibility to make

all decisions regarding the investment of money in the administrative fund, expense fund and program fund including selection of all investment options.

The bill includes provisions of LB76, originally introduced by Columbus Sen. Paul Schumacher, which require taxpayers reducing taxable income using net operating loss carry forwards to add back the net operating loss carry forward amount to their taxable income for purposes of claiming the Nebraska earned income tax credit.



Sen. Paul Schumacher

The provisions also require taxpayers to report the net operating loss carry forward amount as household income when claiming a homestead tax exemption.

The bill passed on a 47-0 vote.

TRANSPORTATION & TELECOMMUNICATIONS

Autocycles classified as motor vehicles

Senators approved a new class of motor vehicle May 21.

LB231, introduced by Papillion Sen. Jim Smith, defines an autocycle as a three-wheeled motor vehicle controlled by a steering wheel and pedals with a driver and passenger sitting in tandem or side-by side in an enclosed area featuring a removable or fixed top, airbag protection, roll cage, three-point safety belt system and antilock brakes.



Sen. Jim Smith

An autocycle is required to have one or two headlamps, at least one tail

lamp, a brake and turn signals. The vehicles cannot be used for the driving skills test for an operator's license exam.

Fees and taxes are \$15 for registration, \$25 for the base motor vehicle tax and a \$10 base motor vehicle fee.

Senators passed the bill on a 48-0 vote.

Driver's licenses for young immigrants approved

Lawmakers passed a bill May 21 that allows young immigrants to drive in Nebraska.

Introduced by Omaha Sen. Jeremy Nordquist, LB623 allows Nebraska residents of driving age who are covered by the federal Deferred Action of Childhood Arrivals (DACA) program to secure a driver's license or state identification card.



Sen. Jeremy Nordquist

Administered by the U.S. Department of Homeland Security, the DACA program is designed to protect from deportation individuals who were brought into the country illegally as children.

DACA recipients will be required to relinquish a state driver's license or identification card if their lawful status is revoked by the federal government.

The bill passed on a 34-9 vote.

Ride-sharing company regulations approved

Senators gave final approval May 21 to a bill authorizing the state to regulate ride-sharing companies, such as Uber and Lyft.

Introduced by Omaha Sen. Heath Mello, LB629 designates a transportation network company (TNC) as a new class of transportation service provider. A TNC falls under the jurisdiction of the Public Service

Commission and is defined as a corporation, partnership or other entity that uses an online application or digital network to connect riders to drivers for transportation service.



Sen. Heath Mello

The bill establishes regulations for a TNC regarding stages of operation, permits, insurance, driver background checks, vehicle inspections, fee collection and complaint investigation. TNC drivers in Nebraska are required to have a valid driver's license, proof of registration, proof of automobile liability insurance and be at least 21 years old.

A TNC must pay a \$25,000 registration fee and maintain a minimum \$1 million of primary liability insurance coverage for death, personal injury and property damage.

The bill defines a personal vehicle used by TNC drivers as one that a driver owns, leases or is authorized to use. It excludes from the definition of prearranged ride a shared-expense carpool or vanpool arrangement.

Additionally, the bill requires that a driver provide the TNC with a signed

confirmation that a vehicle lienholder had been notified prior to a vehicle being used for a TNC.

Lawmakers passed the bill with an emergency clause on a 47-0 vote.

URBAN AFFAIRS

Updated building codes advanced

Senators advanced a bill May 20 that would adopt several updated building codes.

Currently, Nebraska uses the 2009 editions of the International Building Codes. LB540, introduced by Bellevue Sen. Sue Crawford, would adopt the 2012 revisions to the following codes:



Sen. Sue Crawford

- the International Building Code, which covers all new construction except one- and two-family dwellings;

- the International Residential Code, which covers new construction of one- and two-family dwellings; and
- the International Existing Building Code, which covers repair, alteration, addition and change of occupancy for existing buildings.

Crawford said that Nebraska has not updated its building codes since 2011, when the 2009 editions were adopted.

"As other states begin to move forward in considering the [newly released] 2015 codes, it's important that Nebraska update its codes from what are now six-year-old codes," she said.

The bill would not adopt the 2012 revisions to the International Energy Conservation Code, as the state currently operates under the 2009 code.

Omaha Sen. Beau McCoy supported the bill.

"Every day it's a difficult subject for home builders, contractors and local government officials," he said. "There is a need to balance public safety and good construction practices with the cost of doing business."

Senators advanced the bill to select file on a 33-0 vote. ■

COMMITTEE HEARINGS

*Current hearing schedules are always available at: nebraskalegislature.gov/calendar

Tuesday, May 26

Government, Military & Veterans Affairs Room 1507 - 12:00 p.m.

Appointment: Richard Grauerholz - State Emergency Response Commission

Appointment: Patrick Guinan - State Personnel Board

Appointments: Timothy G. Hruza, Matt Enenbach - Neb. Accountability & Disclosure Commission

Health & Human Services Room 2102 - 12:00 p.m.

Appointments: Norman B. Weverka, Stacie L. Ray - Commission for the

Deaf and Hard of Hearing

Appointment: Craig A. Timm - Foster Care Advisory Committee

Natural Resources Room 1525 - 12:00 p.m.

Appointments: Douglas M. Anderson, Jeremy J. Buhl, Dennis D. Grams, John Kinter, Ronald J. Sheppard, John C. Turnbull - Environmental Quality Council

Wednesday, May 27

Natural Resources Room 1525 - 12:00 p.m. - 1:30 p.m.

Public Hearing will also be

conducted via video conference.

Video Conference Site: ESU #13, 4215 Avenue I, Conference Room C, Scottsbluff

LB664 (Chambers) Provide duties for the Nebraska Oil and Gas Conservation Commission relating to disposal of wastewater

Transportation & Telecommunications Room 1113 - 8:00 a.m.

LR338 (Davis) Urge the Federal Railroad Administration to adopt a rule requiring a train crew of at least two individuals ■

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